

REMARKS

Claims 1-41 and 52-54 are pending in the present application.

The Examiner has required election in the present application between:

Group I, claims 1-3, 20 and 21, drawn to a method for increasing plaminogen activation;

Group II, claims 4-9 and 27-31, drawn to a method for preventing cell migration;

Group III, claims 10-15 and 36-38, drawn to drawn to a method for treating cancer;

Group IV, claims 16 and 17, drawn to a method for regulating capillary tube formation;

Group V, claims 18, 19 and 39-41, drawn to a pharmaceutical composition comprising melanotransferrin;

Group VI, claims 22-26 and 32-35, drawn to a pharmaceutical composition comprising an antibody recognizing p97; and

Group VII, claims 52-54, drawn to a method of treating thrombo-embolic disorders.

For the purpose of examination of the present application, Applicants elect, without traverse, Group III, Claims 10-15 and 36-38.

The Examiner alleges that the technical feature recited in claim 22 is not special. More specifically, the Examiner is of the opinion that the reference of Jefferies *et al.* teaches the subject matter claimed in claim 22. The Examiner argues that this technical feature shared throughout the various groups of invention is not a “special technical feature” as defined by PCT Rule 13.2 as it does not define a contribution over the art. Thus, the groups of invention identified by the Examiner are not so linked to form a single general concept.

The Applicants wish to respectfully point out to the Examiner that the present application is the first document that discloses the utility of p97 for regulating plasminogen activation, regulating cell migration, for treating cancer or thrombo-embolic disorders. On the contrary, the reference of Jefferies *et al.* only teaches a composition for delivering an agent across the blood – brain barrier (see column 8, lines 57-61 of Jefferies *et al.*). Nowhere in Jeffries *et al.* is a pharmaceutical composition for use in regulating cell migration of a cell showing p97 activity, comprising p97 in association with a pharmaceutically acceptable carrier, as claimed in claim 22 of the present application, taught or suggested. The Applicants wish to remind the Examiner that claim 22 is specifically reciting “*A pharmaceutical composition for use in regulating cell migration...*” Thus, since claim 22 is believed to be novel and inventive in view of the teaching found in Jefferies *et al.*, and since the Examiner is of the opinion that the linking feature of the groups of invention is recited in claim 22, the groups of invention identified by the Examiner are linked to form a single general concept.

In addition, the Applicants wish also to respectfully point out that the Examiner uses PCT Rule 13.1 to allege that there is a lack of unity of invention. This application was already examined with respect to PCT Rule 13.1 during the International Phase. During that phase, the International Examiner did not even raise the lack of unity of invention, as this application was considered to contain only one invention. It seems that the same Rule, namely PCT 13.1, should have the same effect regardless of the country where the application is examined.

In view of the above, rejoining of Groups I-VII of invention and examination of claims 1-41 and 52-54 on the merits are respectfully requested. At least groups I-IV and VII (claims 1-

17, 20-21, 27-31, 36-41 and 52-43), directed to methods of use of the inventive composition which have been found unitary during the International examination, should be rejoined.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell, Registration No 36,623 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.


☒ Attached is a Petition for Extension of Time.

☒ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: August 22, 2007

Respectfully submitted,

By 
Mark J. Nuell
Registration No.: 36,623
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 260
San Diego, California 92130
(858) 792-8855
Attorney for Applicant